

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSEPH ELIJAH AGEE,) CASE NO. C05-1506-MJP
)
Plaintiff,)
)
v.) ORDER DISMISSING § 1983 ACTION
)
SHANE STEVENSON, et al.,)
)
Defendants.)
_____)

The Court, having reviewed defendants' motion for summary judgment and motion to dismiss, the Report and Recommendation of the Honorable Mary Alice Theiler, United States Magistrate Judge, any objections thereto, and the balance of the record, does hereby ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) Defendants' motion for summary judgment (Dkt. #28) is GRANTED. The complaint and this § 1983 action are DISMISSED as frivolous. *See* 28 U.S.C. § 1915(e)(2)(B)(i);
- (3) Defendant Duffy's motion to dismiss (Dkt. #31) is DENIED as moot;
- (4) This dismissal shall count as a dismissal under 28 U.S.C. § 1915(g); and

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01 (5) The Clerk is directed to send copies of this Order to plaintiff, to counsel for
02 defendants, and to Judge Theiler.

03 DATED this _2nd day of ____October_____, 2006.

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06 Marsha J. Pechman
07 U.S. District Judge
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